

REMARKS AND ARGUMENTS

ON THE SPECIFICATION:

DRAWINGS – 37 CFR 1.121

A typographical error has been pointed out by the examiner and corrected. The
5 applicant failed to include the reference numeral 202 in the specification indicating the
bend in the tool. This has been corrected with the addition of the reference numeral in
the second full paragraph of page four. The drawings are therefor in compliance with 37
CFR 1.85(p)(5).

No new material has been added.

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ON THE CLAIMS

ELECTION / RESTRICTION

An election requirement between claims 1-5 and claims 6 had been made. As per
the provisional election made Sept 14th, 2004, applicant has elected claims set 1, claims
15 1-5 and has withdrawn claim 6.

CLAIM REJECTION 35 USC 112

Claim 5 has been rejected due to the examiner's objection to what may be
described as 'distinct but similar' claim language. Applicant has amended claim 1 to
delete the objectionable 'similar' language. This limitation is reflected in the newly
20 presented claim 10 and distinct in claim structure from claim 5.

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EXAMINER SUGGESTION

The examiner has suggested that the recitation of "said remaining tuck blades" be changed to "said at least one remaining tuck blade" for consistency. The applicant has adopted the examiner's suggestion throughout the claims.

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NEWLY PRESENTED CLAIMS

Applicant has presented new dependant claims 7-10 and independent claim 11.

Applicants total independent claims, including the withdrawn claim 6 is now 3.

Independent claim 11 reflects the allowed dependant claim 4 with the limitations

10 of the currently amended claim 1.

Dependant claim 7 is based on the filed specification, page 4, line 19, and is otherwise reflective of the previously allowed claim 4.

Dependant claims 8 and 9 represent an extraction of the "approximately equidistant" limitation in the originally submitted claim 1.

15 Dependant claim 10, as above discussed represents the rectification of the examiners 112 rejection of claim 5.

102 REJECTION - ARGUMENT

20 The examiner has rejected claim 1 as unpatentable under 35 U.S.C. 102(b) as anticipated by Blanchard, U.S. Pat. no. 443,387.

Blanchard claims a tool for double pointing (double pointer) that is essentially a pair of side plates 10 used to hold a heart 18. Applicant's tool is not a double pointer. The novelty and utility of Blanchard comes from the use of the side plates 10 to hold

multiple hearts 18 so that the same tool may be used to hold a heart 18 that will form a U shape or a V shape or work as a "double pointer."

The Blanchard device is distinct in utility and elements from the applicant's claims. The Blanchard device is comprised of two parallel plates 10 that are without
5 analog in applicant's claims. The Blanchard heart 18, is the closest analog to applicant's claimed blades 104, 106, 108, 110. While the Blanchard device uses the parallel plates 10 to hold the heart 18, applicant's device is comprised of multiple pivotal blades.

While the Blanchard Fig. 1 appears to show a pair of blades pivotally joined and rotated 180 degrees, the Blanchard Fig. 1 is a side elevation "partially in section" (line
10 25) and not in a position of utility or functionality and is simply illustrative.

Blanchard does not permit or teach to the use of a remaining blade to be used as a handle. Blanchard claims a distinct handle element 15 which has a shank α that is also held in place by the two parallel plates 10. A careful study of the Blanchard device will reveal that in the illustrative Fig. 1, wherein the two parallel plates are rotated at 180
15 degrees, the Blanchard device is non-functional.

Applicants device is for a point tool that is comprised of nested blades, pivotally attached at one end and is distinct in utility and elements from Blanchard.

103 REJECTION - ARGUMENT

20 The examiner has rejected Claims 2 and 3 under 103(a) as being unpatentable over Blanchard.

As per applicant's arguments above in reference to examiners 102 rejection, Blanchard does not teach to, disclose or enable applicant's device and as such, applicant

argues that a 103 rejection of applicant's claims in light of applicant's above arguments is improper.

CONCLUSION

5 In view of the above amendments, remarks and arguments, reconsideration and allowance of the amended specification and claims is respectfully requested.

Respectfully submitted this 15th day of February, 2005, by:

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